IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL (REVIEW) APPLICATION NO.1/2002
IN
CIVIL REV. APPLICATION NO.71/2001

Mrs. Diana E. Rodrigues,
resident of House No.242,
Padri Vaddo, Gavoi,
Tivim, Bardez, Goa. ..... Applicant.

V/s.

Marcos D'Souza,
Resident of House No.257,
Padri Vaddo, Gavoi,
Tivim, Bardez, Goa ..... Respondent.

Mr. S.G. Bhobe, Advocate for the applicant.

Mrs. A.A. Agni, Advocate for the respondent.

CORAM : A.S. AGUIAR, J.

Date : February 14, 2002.

ORAL ORDER :

Heard learned Advocates. The applicant seeks review of the order of this Court dated 20th April, 2001, rejecting the revision application of the applicant from order of the Addl. District Judge, at Mapusa dated 25.10.2000. By the said order, the learned Addl. District Judge had allowed the appeal of the respondent herein and set aside the order of the trial Court dated 6.4.2000, granting injunction in favour of the applicant herein. However, despite observing that the respondents (applicant herein) have a prima facie case, the Addl. District Judge refused to grant any relief in the form of temporary injunction in the absence of pleadings. This

Court by its said order dated 20/4/2001 while rejecting the revision application, expressed its opinion that the appeal had been allowed for justifiable reasons and that the approach of the lower appellate Court, therefore, could not be faulted with.

2. Attention of this court is drawn to the case of Nanasaheb v. Dattu and others, reported in AIR 1992 Bombay 24, Aurangabad Bench, wherein this Court held that "the mischief to be prevented by the temporary injunction in respect of situation under Clause (c), Rule 1 of Order 39, can be from either of the parties" and, in view thereof, the injunction order in favour of the defendants/applicant granted by the trial Court should not have been vacated.

3. There is nothing in the order of this Court dated 20.4.2001 passed in revision from the order of the appellate Court to show that this Court was not aware of the case of Nanasaheb v. Dattu and ors. (supra). It, therefore, cannot be said that there is any error apparent on the face of the record. On the other hand this Court has clearly observed that the appeal had been allowed for justifiable reasons and, therefore, the approach of the appellate Court could not be faulted with. Reviewing the said order, would mean going behind the reasoning of the Judges of this Court which is not

permissible. Hence, the application for review is rejected and disposed of.

A.S.AGUIAR, J.

ssm.